

CALL TO ORDER

IN REGULAR SESSION Monday, November 2, 2015 at 7:00 P.M. in the Council Chambers of Town Hall, 323 West Michigan Avenue, Marshall, MI, the Marshall City Council was called to order by Mayor Reed.

ROLL CALL

Roll was called:

Present: Council Members: Gerten, McNeil, Metzger, Miller, Mayor Reed, Schurig, and Williams.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: None.

INVOCATION/PLEDGE OF ALLEGIANCE

Council Member Gerten gave the invocation and Mayor Reed led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Williams, supported Metzger, to approve the agenda with the addition of item 8B. Update on the Cronin Building, item 9C. Fiber to the Premise update, and item 12C. Request to appoint the City of Marshall Building Official and Inspector. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

Moved Schurig, supported Williams, to approve the Consent Agenda:

- A. Approve the purchase of a 2016 Chevy Impala from Berger Chevrolet of Grand Rapids in the amount of \$24,829.50;
- B. Minutes of the City Council Work Session and Regular Session held on Monday, October 19, 2015;
- C. Approve city bills in the amount of \$ 704,367.93.

On a roll call vote – ayes: Gerten, McNeil, Metzger, Miller, Mayor Reed, Schurig, and Williams; nays: none. **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITION

A. Recreation Department Annual Report:

Recreation Superintendent, Teri Trudeau, presented the Annual Report for the

Recreation Department.

Moved Miller, supported Schurig, to receive and place on file the 2014-2015 Recreation Department Annual Report. On a voice vote – **MOTION CARRIED.**

B. Cronin Building Update:

Steve Eyke and Gary Cooper provided an update on the Cronin Building renovation.

INFORMATIONAL ITEMS

A. Event Report – Veteran’s Day Ceremony:

City Manager Tarkiewicz provided an event report for the Veteran’s Day Ceremony on November 11, 2015.

B. Event Report – Marshall Christmas Parade:

City Manager Tarkiewicz provided an event report for the Marshall Christmas Parade to be held on Monday, November 30, 2015.

C. Fiber to the Premise Update:

Ed Rice, Director of Electric Utilities, provided an update regarding the Fiber to the Premise project.

Moved Williams, supported Miller, to support staffs efforts in the Fiber to the Premise project and move forward and put together a proposal and bring back to Council the beginning of 2016. On a voice vote – **MOTION CARRIED.**

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. P.A. 425 Conditional Land Transfer with Marshall Township-14998 North Old US 27:

City Manager Tarkiewicz provided background regarding the property at 14998 North Old US 27. The City received a request from The J Group, LLC, at 14998 North Old US 27 to enter into a Public Act 425 Conditional Land Transfer.

Mayor Reed opened the public hearing to hear public comment regarding the request for a P.A. 425 Conditional Land Transfer Agreement for 14998 North Old US 27.

Hearing no comment, the hearing was closed.

Moved Williams, supported Metzger, to approve the P.A. 425 Conditional Land Transfer Agreement with Marshall Township for 14998 North Old US 27. On a roll call vote – ayes: McNeil, Metzger, Miller, Mayor Reed, Schurig, Williams, and Gerten; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
RESOLUTION #2015-28**

**RESOLUTION AUTHORIZING EXECUTION OF CONTRACT
FOR CONDITIONAL TRANSFER OF PROPERTY**

WHEREAS, The J Group, LLC, owner of property commonly known as 14998 Old US 27 North, have petitioned the City of Marshall and Marshall Township for a Conditional Transfer of their property from Marshall Township into the City of Marshall; and

WHEREAS, on February 25, 2006 the City of Marshall entered into a Master 425 Agreement with the Township of Marshall; and

WHEREAS, on September 15, 2014 the City of Marshall extended this Master 425 Agreement with the Township of Marshall until 2026; and

WHEREAS, the Master 425 Agreement facilitates the provision of City services, including municipal sewer, water, police and fire protection to properties currently within Marshall Township according to terms acceptable to both the Township of Marshall and the City of Marshall,

NOW THEREFORE, BE IT RESOLVED, that the City Manager and the City Clerk are authorized to execute a Contract for Conditional Transfer of Property commonly known at 14998 Old US 27 North from the Township of Marshall to the City of Marshall.

IT IS FURTHER RESOLVED, that the Contract for Conditional Transfer shall be in the form of the attached document, subject to changes in form approved by the City Attorney.

As City Clerk I place my seal and sign my name that this is a true and accurate copy of the action taken by the Marshall City Council on November 2, 2015.

Trisha Nelson, City Clerk
CITY OF MARSHALL

Dated: _____

B. P.A. 425 Conditional Land Transfer with Marshall Township - Udell Property:

City Manager Tarkiewicz provided background regarding the Udell property. In 2011, the City/LDFA purchased the Udell Sisters property. The property straddles the Fredonia Township and Marshall Township lines. In 2014, the City annexed the Fredonia Township portion into the city. The LDFA would like to place the entire property into the LDFA, which will require a PA 425 Conditional Land Transfer agreement with Marshall Township.

Mayor Reed opened the public hearing to hear public comment regarding the request for a P.A. 425 Conditional Land Transfer Agreement for the Udell Property.

Hearing no comment, the hearing was closed.

Moved Metzger, supported Schurig, to approve the P.A. 425 Conditional Land Transfer Agreement with Marshall Township for the portion of the former Udell Sisters property owned by the City. On a roll call vote – ayes: Miller, Mayor Reed, Schurig, Williams, Gerten, McNeil, and Metzger; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
RESOLUTION #2015-29**

**RESOLUTION AUTHORIZING EXECUTION OF CONTRACT
FOR CONDITIONAL TRANSFER OF PROPERTY**

WHEREAS, the City of Marshall, owner of property commonly known as the Udell Sisters property south of the Brooks Airport, has requested a Conditional Transfer of their property from Marshall Township into the City of Marshall; and

WHEREAS, on February 25, 2006 the City of Marshall entered into a Master 425 Agreement with the Township of Marshall; and

WHEREAS, on September 15, 2014 the City of Marshall extended this Master 425 Agreement with the Township of Marshall until 2026; and

WHEREAS, the Master 425 Agreement facilitates the provision of City services, including municipal sewer, water, police and fire protection to properties currently within Marshall Township according to terms acceptable to both the Township of Marshall and the City of Marshall,

NOW THEREFORE, BE IT RESOLVED, that the City Manager and the City Clerk are authorized to execute a Contract for Conditional Transfer of Property commonly known as the Udell Sisters property south of the Brooks Airport from the Township of Marshall to the City of Marshall.

IT IS FURTHER RESOLVED, that the Contract for Conditional Transfer shall be in the form of the attached document, subject to changes in form approved by the City Attorney.

As City Clerk I place my seal and sign my name that this is a true and accurate copy of the action taken by the Marshall City Council on November 2, 2015.

Trisha Nelson, City Clerk
CITY OF MARSHALL

Dated: _____

C. P.A. 425 Conditional Land Transfer with Marshall Township – SpartanNash/Chemical Bank:

City Manager Tarkiewicz provided background regarding the SpartanNash/Chemical Bank property. The City received a request from SpartanNash/Chemical Bank at 15975 West Michigan Avenue at the northwest corner of West Michigan Avenue and West Drive to enter into a Public Act 425 Conditional Land Transfer.

Mayor Reed opened the public hearing to hear public comment regarding the request for a P.A. 425 Conditional Land Transfer for 15975 West Michigan Avenue.

Hearing no comment, the hearing was closed.

Moved Schurig, supported Gerten, to approve the P.A. 425 Conditional Land Transfer Agreement with Marshall Township for the SpartanNash/Chemical Bank property at 15975 West Michigan Avenue. On a roll call vote – ayes: Williams, Gerten, McNeil, Metzger, Miller, Mayor Reed, and Schurig; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
RESOLUTION #2015-30**

**RESOLUTION AUTHORIZING EXECUTION OF CONTRACT
FOR CONDITIONAL TRANSFER OF PROPERTY**

WHEREAS, SpartanNash/Chemical Bank, owner of property commonly known as 15975 West Michigan Avenue, have petitioned the City of Marshall and

Marshall Township for a Conditional Transfer of their property from Marshall Township into the City of Marshall; and

WHEREAS, on February 25, 2006 the City of Marshall entered into a Master 425 Agreement with the Township of Marshall; and

WHEREAS, on September 15, 2014 the City of Marshall extended this Master 425 Agreement with the Township of Marshall until 2026; and

WHEREAS, the Master 425 Agreement facilitates the provision of City services, including municipal sewer, water, police and fire protection to properties currently within Marshall Township according to terms acceptable to both the Township of Marshall and the City of Marshall,

NOW THEREFORE, BE IT RESOLVED, that the City Manager and the City Clerk are authorized to execute a Contract for Conditional Transfer of Property commonly known at 15975 West Michigan Avenue from the Township of Marshall to the City of Marshall.

IT IS FURTHER RESOLVED, that the Contract for Conditional Transfer shall be in the form of the attached document, subject to changes in form approved by the City Attorney.

As City Clerk I place my seal and sign my name that this is a true and accurate copy of the action taken by the Marshall City Council on November 2, 2015.

Trisha Nelson, City Clerk
CITY OF MARSHALL

Dated: _____

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Resolution to Provide for Notice of Intent to Issue Capital Improvement Bonds, Publication of "Right of Referendum", and Intent to Reimburse Expenditures from Bond Proceeds:

Moved McNeil, supported Miller, to approve the resolution providing Notice of Intent to Issue Capital Improvement Bonds and Intent to Reimburse Expenditures from Bond Proceeds. On a roll call vote – ayes: Metzger, Miller, Mayor Reed, Schurig, Williams, Gerten, and McNeil; nays: none. **MOTION CARRIED.**

**City of Marshall
County of Calhoun, State of Michigan**

RESOLUTION #2015-31

NOTICE OF INTENT RESOLUTION
CAPITAL IMPROVEMENT BONDS

A RESOLUTION TO PROVIDE FOR:

- Publication of a Notice of Intent to Issue Bonds and Right of Referendum for up to \$4,300,000 of bonds to construct a new electric distribution substation and to refund the 1999 Electric Revenue Bonds.
- When the Notice is published in *The Marshall Advisor/Chronicle*, voters will have a 45-day referendum period during which they could petition for referendum.
- Statement of Intent to reimburse expenditures from bond proceeds required by Internal Revenue Code for tax-exempt debt.

PREAMBLE

WHEREAS, the City of Marshall, County of Calhoun, State of Michigan (the “City”) determines it to be necessary for the public health, safety and welfare of the City and its residents to construct a new electric distribution substation in the I-94/Brewer St. area, together with any appurtenances and attachments thereto and any related easement or site acquisition or site improvements (the “Capital Improvements”); and

WHEREAS, under the provisions of Section 517 of Act No. 34, Public Acts of Michigan, 2001, as amended (“Act 34”), a City may issue municipal securities to pay the cost of any capital improvement items within the limitations provided by law; and

WHEREAS, the City has previously issued its Electric Utility System Revenue Bonds, Series 1999 (the “1999 Bonds”) for the purpose of paying the costs of acquiring and constructing improvements and extensions to the Electric Utility System, and the City could obtain net present value savings through refunding the 1999 Bonds; and

WHEREAS, the issuance by the City of bonds under Section 517 of Act 34 in an amount not to exceed Four Million Three Hundred Thousand Dollars (\$4,300,000) (the “Bonds”) for the purposes of financing costs of acquisition and construction of the Capital Improvements and acquisition of the improvements financed with the 1999 Bonds through refunding the 1999 Bonds, appears to be the most practical means to that end; and

WHEREAS, the City intends to pay the principal of and interest on the Bonds from electric system revenues; and

WHEREAS, Act 34 requires that the aggregate outstanding balance of municipal securities issued under Section 517 of Act 34 by a City shall not exceed 5% of the state equalized valuation of the property assessed in that City, and after the issuance of the Bonds

the outstanding balance of all municipal securities issued under Section 517 of Act 34 by the City will not exceed this limit; and

WHEREAS, a notice of intent to issue the Bonds must be published in order to comply with the requirements of Section 517 of Act 34 and Section 5(g) of the Home Rule Cities Act, Act 279, Public Acts of Michigan, 1909, as amended; and

WHEREAS, the Internal Revenue Service has issued Treasury Regulation § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended, governing proceeds of debt used for reimbursement, pursuant to which the City must declare official intent to reimburse expenditures with proceeds of such debt before making the expenditures.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue the Bonds in *The Marshall Advisor/Chronicle*, a newspaper of general circulation in the City.

2. The notice of intent shall be published as a one-quarter (1/4) page display advertisement as required by Section 517 of Act 34, and shall be in substantially the following form:

NOTICE TO ELECTORS AND TAXPAYERS
OF THE CITY OF MARSHALL
OF INTENT TO ISSUE BONDS SECURED BY THE
TAXING POWER OF THE CITY AND RIGHT OF REFERENDUM THEREON

PLEASE TAKE NOTICE that the City Council of the City of Marshall, County of Calhoun, State of Michigan, intends to issue and sell general obligation capital improvement bonds pursuant to Act 34, Public Acts of Michigan, 2001, as amended, in the maximum aggregate principal amount not to exceed Four Million Three Hundred Thousand Dollars (\$4,300,000) for the purposes of paying costs to construct a new electric distribution substation, together with any appurtenances and attachments thereto and any related easement or site acquisition or site improvements, and to acquire improvements financed with the Electric Utility System Revenue Bonds, Series 1999 through refunding the 1999 bonds if the refunding produces savings. The bonds may be issued in one or more series and may be combined with bonds issued for other purposes as shall be determined by the City Council. The bonds will mature in annual installments not to exceed the maximum permitted by law, with interest on the unpaid balance from time to time remaining outstanding on said bonds to be payable at rates to be determined at sale of the bonds but in no event to exceed such rates as may be permitted by law. Bond proceeds may be used for capitalized interest to the extent permitted by law.

SOURCE OF PAYMENT OF BONDS

The City intends to pay the principal of and interest on the bonds from the electric system revenues. A schedule of electric rates, fees and charges can be obtained at www.cityofmarshall.com. The rates, fees and charges may from time to time be revised to

provide sufficient system revenues to provide for the expenses of operating and maintaining the system, to pay the principal of and interest on the bonds, and to pay other obligations of the system.

In case of the insufficiency of these revenues, the principal of and interest on the bonds shall be payable from the general funds of the City lawfully available for such purposes including property taxes levied within existing charter, statutory and constitutional limitations.

RIGHT OF REFERENDUM

THE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A VALID PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS RESIDING WITHIN THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. If such petition is filed, the bonds may not be issued without an approving vote of a majority of the qualified electors of the City voting thereon.

THIS NOTICE is given pursuant to the requirements of Section 517 of Act 34, Public Acts of Michigan, 2001, as amended, and Section 5(g), Act 279, Public Acts of Michigan, 1909, as amended. Further information concerning the matters set out in this notice may be secured from the City Clerk's office.

Trisha Nelson
City Clerk, City of Marshall

3. The City Council does hereby determine that the foregoing form of notice of intent to issue the Bonds, and the manner of publication directed, is adequate notice to the electors of the City and is the method best calculated to give them notice of the City's intent to issue the Bonds, the purpose of the Bonds, the source of payment of the Bonds, the security for the Bonds, and the right of referendum of the electors with respect thereto. The City Council does hereby determine that the newspaper named for publication will reach the largest number of persons to whom the notice is directed.

4. The City may incur expenditures for the Capital Improvements prior to receipt of proceeds of the Bonds, and may advance moneys for that purpose from the general fund or funds of the City's electric system, to be reimbursed from proceeds of the Bonds when available. The Finance Director shall keep a specific record of all such expenditures.

5. The City hereby makes the following declaration of intent for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

(1) The City reasonably expects to reimburse itself for the expenditures described in (2) below with proceeds of debt to be incurred by the City.

(2) The expenditures described in this paragraph (2) are to pay certain costs associated with the Capital Improvements which were or will be paid subsequent to sixty (60) days prior to the date hereof or which will be paid prior to the issuance of the debt from the general fund or capital funds of the City or the City's electric system.

- (3) As of the date hereof, the maximum principal amount of debt expected to be issued for reimbursement purposes, including reimbursement of debt issuance costs, is \$4,000,000 which debt may be issued in one or more series and/or together with debt for other purposes.
- (4) A reimbursement allocation of the expenditures described in paragraph (2) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Capital Improvements are placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Capital Improvements to reimburse the City for a capital expenditure made pursuant to this Resolution.
- (5) The expenditures for the Capital Improvements are "capital expenditures" as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of "placed in service" under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).
- (6) No proceeds of the borrowing paid to the City in reimbursement pursuant to this Resolution will be used in a manner described in Treas. Reg. § 1.150-2(h) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in paragraph (4) above.
6. The City hereby requests that Bendzinski & Co., Registered Municipal Advisors with the Municipal Securities Rulemaking Board, continue to serve the City as Municipal Advisor for the Bonds to advise the City on the marketing and sale of the Bonds.
7. The City hereby requests Miller, Canfield, Paddock and Stone, P.L.C. to continue as bond counsel to the City for the Bonds. The City Council acknowledges that Miller, Canfield, Paddock and Stone, P.L.C., represents many municipal bond underwriters, banks, and financial institutions in connection with matters unrelated to issuance of the Bonds by the City.
8. The officers, administrators, agents and attorneys of the City are authorized and directed to take all other actions necessary and convenient to facilitate sale of the Bonds.
9. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

I hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the City Council of the City of Marshall, County of Calhoun, State of Michigan, at a Regular meeting held on November 2, 2015 at 7:00 o'clock p.m., Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

I further certify that the following Members were present at said meeting: Gerten, McNeil, Metzger, Miller, Mayor Reed, Schurig, and Williams and that the following Members were absent: None.

I further certify that Member McNeil moved for adoption of said resolution and that Member Miller supported said motion.

I further certify that the following Members voted for adoption of said resolution: Metzger, Miller, Mayor Reed, Schurig, Williams, Gerten and McNeil and that the following Members voted against adoption of said resolution: None.

City Clerk

B. Snow Removal for the Marshall Regional Law Enforcement Center:

Moved Schurig, supported McNeil, to approve the bid for the snow removal services from New Horizon Property Management of Marshall in the amount not to exceed \$15,000 per year for a 2-year contract. On a roll call vote – ayes: Gerten, McNeil, Metzger, Miller, Mayor Reed, Schurig, and Williams; nays: none. **MOTION CARRIED.**

C. Request to appoint the City of Marshall Building Official and Inspector:

Moved Williams, supported Schurig, to adopt the resolution to authorize Tim Musser to act as the City of Marshall's Building Official and Building Inspector. On a voice vote - **MOTION CARRIED.**

**CITY OF MARSHALL
RESOLUTION #2015-32**

**RESOLUTION TO APPOINT TIM MUSSER AS THE CITY OF MARSHALL'S
BUILDING OFFICIAL AND INSPECTOR**

THE CITY OF MARSHALL ORDAINS:

Whereas; As part of the administration of the State Construction Code and as required under 1986 PA 54, the City of Marshall is required to have an appointed Building Official and Inspector.

Whereas; As of November 9, 2015, the City of Marshall has retained the services of Tim Musser to act as Building Official and Building Inspector and administer and enforce building codes and associated ordinances in the City of Marshall.

Whereas; To provide continuity of services it would be beneficial to appoint Tim Musser as the City of Marshall's Building Official and Inspector.

Therefore, it is resolved; That the City of Marshall appoints Tim Musser as the City of Marshall's Building Official and Inspector.

This Resolution is declared to be effective immediately upon publication.

Adopted and signed this 2nd day of November, 2015.

Jack Reed, Mayor

Trisha Nelson, City Clerk

I, Trisha Nelson, being duly sworn as the Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 2, 2015, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Trisha Nelson, City Clerk

APPOINTMENTS/ELECTIONS

A. Marshall Area Farmer's Market Advisory Board:

Moved Miller, supported Williams, to approve the appointment of Shannon Aikins to the Marshall Area Farmer's Market Advisory Board with a term expiring October 20, 2018. On a voice vote – **MOTION CARRIED.**

Marshall City Council, Regular Session
Monday, November 2, 2015

PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

COUNCIL AND MANAGER COMMUNICATIONS

ADJOURNMENT

The meeting was adjourned at 8:17 p.m.

Jack Reed, Mayor

Trisha Nelson, City Clerk